

**FINAL STATEMENT OF REASONS
FOR PROPOSED BUILDING STANDARDS OF THE
OFFICE OF THE STATE FIRE MARSHAL
REGARDING THE 2019 CALIFORNIA REFERENCED STANDARDS CODE
CALIFORNIA CODE OF REGULATIONS, TITLE 24, PART 12
(2018 TRIENNIAL CODE CYCLE)**

The Administrative Procedure Act requires that every agency shall maintain a file of each rulemaking that shall be deemed to be the record for that rulemaking proceeding. The rulemaking file shall include a Final Statement of Reasons. The Final Statement of Reasons shall be available to the public upon request when rulemaking action is being undertaken. The following are the reasons for proposing this particular rulemaking action:

UPDATES TO THE INITIAL STATEMENT OF REASONS:

Government Code Section 11346.9(a)(1) requires an update of the information contained in the Initial Statement of Reasons. If the update identifies any data or any technical, theoretical or empirical study, report, or similar document on which the state agency is relying that was not identified in the Initial Statement of Reasons, the state agency shall comply with Government Code Section 11347.1.

The Office of the State Fire Marshal (OSFM) has not added any additional data or any technical, theoretical or empirical studies, reports or similar documents on which the OSFM relied on in proposing these amendments to Title 24, Part 12, into this Final Statement of Reason unless noted otherwise in the comments or response to comments.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

Pursuant to Government Code Section 11346.9(a)(2), if the determination as to whether the proposed action would impose a mandate, the agency shall state whether the mandate is reimbursable pursuant to Part 7 of Division 4. If the agency finds that the mandate is not reimbursable, it shall state the reasons for the finding(s).

The Office of the State Fire Marshal (OSFM) has determined that the proposed regulatory action would not impose a mandate on local agencies or school districts.

The Office of the State Fire Marshal finds that the mandate is not reimbursable pursuant to Part 7 (commencing with section 17500) of Division 4, Government Code. Health and Safety Code Sections 1250, 13143, 13211, 1569.72, 1569.78, 1568.02, 1502, 1597.44, 1597.45, 1597.46, 1597.54, 1597.65, 13108, 13108.5, 13114, 13143, 13143.2, 13143.6, 13146, 13210, 13211, 17921, 18949.2, 25500 through 25545, Government Code Section 51176, 51177, 51178, 51179, 51189, Education Code 17074.50 and Public Resources Code Sections 4201 through 4204 requires the OSFM to prepare and adopt regulations establishing minimum standards for the prevention of fire and for the protection of life and property against fire.

OBJECTIONS OR RECOMMENDATIONS MADE REGARDING THE PROPOSED REGULATION(S).

Government Code Section 11346.9(a)(3) requires a summary of EACH objection or recommendation regarding the specific adoption, amendment, or repeal proposed, and an explanation of how the proposed action was changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action, or reasons for making no change. Irrelevant or repetitive comments may be aggregated and summarized as a group.

The following is the Office of the State Fire Marshal's summary of and response to comments specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the actions or reasons for making no change:

Item #1 Flammability Standards for Building Insulation Materials

Commenter(s):

Senator Nancy Skinner,
California Professional Firefighter
International Association of Fire Fighters
San Francisco Firefighters Cancer Prevention Foundation
Marin County Community Development Agency – Building Safety & Safety Division
Health Care Without Harm Organization
StopWaste
The Durst Organization
Mark ASCHHEIM, professor of Civil, Environmental, and Sustainable Engineering at
Santa Clara University
San Francisco Firefighters Cancer Prevention Foundation
San Francisco Department of the Environment
San Francisco Fire Department
San Francisco Department of Building Inspection
Communications Workers of America, District 9
Healthy Building Science
Green Science Policy Institute
UCSF & UCSF Health
MARCY WONG LOGAN ARCHITECTS
Urban Fabrick, Inc.
William J Worthen Foundation
Wareham Development
Perkins+Will
Arkin Tilt Architects
ARUP

Build It Green
HDR
LOISOS + UBBELOHDE
McLennan Design
Page
Ratcliff Architecture
Vision Architecture
Siegel & Strain Architects
STUDIO-E Architecture
Piper Kujac, LEED AP, MBA
WRNS Studio
Zero Impact Architecture
ZGF Architects
Troon Pacific
Advocate Aurora Health
Facebook
Genentech
Google
Kaiser Permanente
Dan A. Emmett
Gail Krowech, Ph.D
Charles Pankow Builders, Ltd
GCI General Contractors
Development Center for Appropriate Technology
Bora Architects
Sustainable Principle
Long Green Specs
Goody Clancy
UC Berkeley School of Public Health -Labor Occupational Health Program
U.S. Green Building Council
UCLA Fielding School of Public Health
Natural Resources Defense Council
Breast Cancer Action
Center for Biological Diversity
Center for Environmental Health
Clean and Healthy New York
Environmental Working Group
Green Science Policy Institute
Natural Resources Defense Council
Passive House CA
Safer States
Sierra Club
Toxic-Free Future

Summary:

Letters of Support.

The proposals reduce toxic chemicals that adversely affect the public and fire fighters. The proposed regulations will promote public health, green buildings and a safer environment. The proposals do not increase the fire danger and should be supported.

Commenter(s):

Polyisocyanurate Insulation Manufacturers Association
Energy Efficiency Foam Coalition
American Chemistry Council
GBH International
Atlas EPS, a Division of Atlas Roofing Corporation

Summary:

Request for Disapproval.

The reasons stated are:

The proposals are in conflict with the national standards, they increase the fire danger, the proposals are without proper justification, they require labeling of insulation without proper standards, the insulation could be misused, the Oklahoma State University (OSU) test was limited and should not expand to extent of the proposals, the proposals expand the scope of the OSU tests, and the Code Advisory Committee recommended a long-term study.

Response:

The OSFM asks for approval of the proposals. The OSFM limited the scope the regulations for non-flame treated foam insulation to an area that would pose the lowest fire threat. This was identified as the frost protected foundation or foam under concrete. The Code Advisory Committee (CAC) identified some issues with the proposals. The identified standards for frost protected foundation that are used in the original proposal allow applications that were not directly under concrete. The OSFM, after the CAC meeting, modified the regulations and removed the frost protected foundation standards, and spelled out regulations that meet the intent – foam insulation on grade, under 3 ½ inches of concrete.

The Oklahoma State University (OSU) report included the recommendation for the labeling of products to limit the misuse. The OSFM agreed and included in the proposals. The CAC recommended that size requirements for the letters on the label were needed. The OSFM added these and a 15-day public period was conducted. The misuse of a product does not justify eliminating a proper use of a product. Enforcement of the regulations is still needed to ensure compliance.

The OSFM maintains that fire testing by OSU justifies the proposals and that non-flame treated foam insulation can be safely installed under 3 ½ inches of concrete without creating a fire hazard.

DETERMINATION OF ALTERNATIVES CONSIDERED AND EFFECT ON PRIVATE PERSONS

Government Code Section 11346.9(a)(4) requires a determination with supporting information that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.

The OSFM has determined that no alternative considered would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective as and less burdensome to affected private persons than the proposed adoption by reference with OSFM amendments. Therefore, there are no alternatives available to the OSFM regarding the proposed adoption and amendment of this code.

REJECTED PROPOSED ALTERNATIVE THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES:

Government Code Section 11346.9(a)(5) requires an explanation setting forth the reasons for rejecting any proposed alternatives that would lessen the adverse economic impact on small businesses, including the benefits of the proposed regulation per 11346.5(a)(3).

The Office of Small Business Advocate did not offer comments to the Office of the State Fire Marshal on this proposed rulemaking action.